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April 10, 2015

Jeff S. Jordan  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

**Re: MUR 6916, Friends of Michelle and Jeannine L. Daniels as Treasurer**

Dear Mr. Jordan:

This response is filed on behalf of our client, Friends of Michelle and Jeannine L. Daniels as Treasurer ("Respondents" or "Committee"), to the above-referenced complaint. The Committee is the principal campaign committee of Congresswoman Michelle Lujan Grisham. Organized in 2011, the Committee has always operated in accordance with the Federal Election Campaign Act, 52 U.S.C § 30101, et. seq. (the "Act"). During both the 2012 and 2014 election cycles, the Committee made every effort to comply with the reporting requirements of the Act and reported all contributions and expenditures by the Committee in a timely manner.

The complaint offers no specific facts in regard to the Committee in this matter and nothing that would support a conclusion of any violation of the Act. As a result, the Committee has no reasonable basis to build a response and is required to refute claims made on pure speculation without additional facts. Furthermore, despite the complainants' failure to make a claim, the Committee denies that it has ever received an in-kind contribution from Catalist or NGP VAN, and denies that it has been involved in any impermissible coordination. For the reasons set forth below, this complaint is wholly without merit and should be dismissed.

### **ARGUMENT**

**The Complaint does not comply with the requirements of 11 CFR Part 111 governing the filing of a proper complaint.**

The complaint fails to allege any facts or make any specific claims against the Committee that would demonstrate a violation of the Act. FEC regulations require that a proper complaint contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction. 11 CFR 111.4(d)(3). As discussed above, this complaint fails to make such a claim in regard to

the Committee. Aside from listing the Committee within the seventeen pages of respondents, the complaint makes no other mention to the Committee or its actions.<sup>1</sup> The complaint alleges no specific facts upon which the FEC could base a reason to believe finding and offers no evidence of any wrongdoing by the Committee that the Committee could reasonably be expected to refute. Accordingly, in failing to provide specific facts relating to the Committee, the complaint fails to give the Commission any reason to proceed with this matter.<sup>2</sup>

In regard to both claims refuted in the following paragraphs, the complaint offers no facts to support either. As the paragraphs below will show, to find an in-kind contribution was made or coordination occurred the complaint would need to provide specific facts demonstrating each. To simply speculate and say something may have happened without offering more will not suffice.<sup>3</sup> As a result, any claims against the Committee should be dismissed.

**The Committee has not received any in-kind contribution from Catalist or NGP VAN.**

The Committee has never had a contract with Catalist and never received any in-kind contribution from NGP VAN. The Committee's only agreement with either of the named "companies" in the complaint is a contract with NGP VAN to lease software used to fundraise and generate reports for compliance purposes. To show an impermissible in-kind contribution was made by either Catalist or NGP VAN, the complaint must demonstrate that the Committee received goods or services from either company for less than the normal and usual charge. *See* 11 CFR 100.52(d).

Contrary to what is inferred by the complaint, the Committee has not received an in-kind contribution from either company and the complaint cites to no specific facts that would suggest any other conclusion. In fact, the Committee has not received anything of value from Catalist, pursuant to a valid agreement or otherwise, and the only goods it has received from NGP VAN were leased at fair market value and the normal and usual

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<sup>1</sup> This complaint is clearly a careless and politically motivated attack made in an effort to distract respondents. It offers no facts to refute and does not present any legitimate allegations. As such, the Commission should not waste any additional time or resources pursuing this matter and dismiss the complaint so that respondents can move forward.

<sup>2</sup> "In order for the Commission to determine that a complaint provides reason to believe a violation occurred, the complainant, under penalty of perjury, must provide specific facts from reliable sources that a Respondent fails to adequately refute." MUR 6056 (Protect Colorado Jobs, Inc) Statement of Reasons of Vice Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn at 6.

<sup>3</sup> "Purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the FECA has occurred." MUR 4960 (Hillary Rodham Clinton for Senate) Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith and Scott E. Thomas at 3. "Nonetheless, we cannot allow mere conjecture (offered by a political opponent's campaign) to serve as a basis to launch an investigation, simply because the conjecture is met by less than the most explicit denial." MUR 4850 (Fossella, Cm to Reelect) Statement of Commissioners Darryl R. Wold, David M. Mason and Scott E. Thomas at 2.

charge for such goods pursuant to an agreement negotiated at arms length.<sup>4</sup> As such, no discount or favored deal was given to the Committee as required by the Act. Accordingly, any allegation that the Committee received an in-kind contribution from either Catalist or NGP VAN should be dismissed.

**The Committee did not take part in any impermissible coordination.**

The complaint offers no specific facts about the Committee that would indicate that it was involved in any impermissible coordination scheme. Mere speculation of a violation is not enough and the Committee expressly denies it ever used the services it was provided under the agreement with NGP VAN to take part in any such coordination.

The FEC regulations regarding coordination are clear and require the complainant to show specific facts that a party violated all three prongs of the test outlined in 11 CFR 109.21. In the present situation, there is no basis to believe the any communication was made on behalf of the Committee by any other named respondent, nothing is cited to suggest the Committee shared any nonpublic information with any other respondent, and there is nothing that suggests the Committee undertook any action that could meet the conduct standard of the test. Accordingly, the Committee could not have been a part of any coordinated communication as a matter of law and any claims suggesting otherwise should be dismissed along with the other claims made in this complaint.

**CONCLUSION**

For the reasons stated above the complaint against the Committee is completely illusory and without merit. The complaint offers no specific facts to suggest the Committee has committed any violations of the Act and the Committee denies any violations have occurred. Accordingly, the Commission should dismiss this matter as it relates to the Committee and commence no further investigation.

Respectfully Submitted,



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<sup>4</sup> "Because the "fair market price" is the price of the list in the market in which lists are ordinarily rented at the time of the rental, the "fair market price" is the usual and normal charge for renting the list." Advisory Opinion 2010-30 (Citizens United) at 3.